

New York State Office Of General Services
Procurement Services Group
Corning Tower Building
Empire State Plaza
Albany, New York 12242
<http://www.ogs.ny.gov>

PURCHASING MEMORANDUM

GENERAL INFORMATION BULLETIN

NUMBER: CL-768

DATE: August 13, 2012

PLEASE ADDRESS INQUIRIES TO:
STATE AGENCIES

OTHER AUTHORIZED USERS

Customer Services
(518) 474-6717
customer.services@ogs.ny.gov

SUBJECT: IMPLEMENTATION OF THE IRAN DIVESTMENT ACT

TO ALL STATE AGENCIES AND OTHERS AUTHORIZED TO USE STATE CONTRACTS:

Pursuant to State Finance Law §165-a, on August 10, 2012 the Commissioner of the Office of General Services (OGS) posted a prohibited entities list of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law) on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

To assist agencies in complying with the Iran Divestment Act, we offer below sample text for inclusion in Solicitations, Contracts, Assignments and Renewals/Extensions which will be issued by a Public Entity and/or signed by a successful Bidder/Contractor **after** August 10, 2012.

(TEXT FOR SOLICITATION DOCUMENTS)

IRAN DIVESTMENT ACT

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should [AGENCY] receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, [AGENCY] will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then [AGENCY] shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

[AGENCY] reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

(TEXT FOR CONTRACTS)

IRAN DIVESTMENT ACT

By entering into this Contract, Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before [AGENCY] may approve a request for Assignment of Contract.

During the term of the Contract, should [AGENCY] receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, [AGENCY] will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then [AGENCY] shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

[AGENCY] reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

(TEXT FOR ASSIGNMENT FORMS)

IRAN DIVESTMENT ACT

By entering into this Contract Assignment, Assignee certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Assignee agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Assignee also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before [AGENCY] may approve a request for Assignment of Contract.

During the term of the Contract, should [AGENCY] receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, [AGENCY] will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then [AGENCY] shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Assignee in default.

[AGENCY] reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Contract, and to pursue a responsibility review with Assignee should it appear on the Prohibited Entities List hereafter.

(TEXT FOR CONTRACT EXTENSIONS/RENEWALS if original Contract was procured prior to posting of the Prohibited Entities List)

IRAN DIVESTMENT ACT

By entering into a renewal or extension of this Contract, Contractor certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to further renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the Prohibited Entities List before [AGENCY] may approve a request for Assignment of Contract.

During the term of the Contract, should [AGENCY] receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, [AGENCY] will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then [AGENCY] shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

[AGENCY] reserves the right to reject any renewal, extension, or request for assignment for an entity that appears on the Prohibited Entities List hereafter and to pursue a responsibility review with respect to any entity that is granted a contract extension/renewal or assignment and appears on the Prohibited Entities List thereafter.

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